



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,237	03/26/2004	Matthew J. Banet	0114079.00144US1	1767
78994 7590 06/26/2009 WilmerHale/Triage Wireless 60 State Street Boston, MA 02109				
EXAMINER SORIANO, BOBBY GILES				
ART UNIT		PAPER NUMBER		
3769				
NOTIFICATION DATE		DELIVERY MODE		
06/26/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

teresa.carvalho@wilmerhale.com

sharon.matthews@wilmerhale.com

michael.mathewson@wilmerhale.com

Office Action Summary

Application No.

10/810,237

Applicant(s)

BANET, MATTHEW J.

Examiner

Bobby Soriano

Art Unit

3769

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-18 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-11 and 13-18 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

The Examiner acknowledges the amendment filed on March 16, 2009, wherein claims 1-11 and 13-18 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar et al. US Patent Application 2002/0198473 (hereinafter referred to as Kumar) in view of Mills US Patent 6,537,225.

Kumar disclose the following of claims 1 and 18:

a system for monitoring blood pressure comprising:

a short-range wireless transmitter transmits blood pressure information ([0072] indicating wireless transmission from the patient-side device to the Internet); and

an external computer system (Fig. 1A 104, 106, and 108 computer systems external to computing device 110 and medical instrumentation device 102) including:

a long-range wireless interface that receives the blood pressure information from the short-range wireless transmitter ([0073] indicating a long-range wireless connection from a physician's remote device to the Internet such as satellite phones);

software system that receives blood pressure information determined by the blood-pressure monitor and transmitted with the wireless interface ([0067], [0081], and [0082] wherein a software engine on central server 106 manages the transmission of patient information from the patient-side device via the wireless interface of [0072] or [0073]);

a database that receives the blood pressure information from the software system and stores this information or derivatives thereof (Fig. 1A central server 106 described in [0083] wherein the server stores the physiological data from the patient-side device including blood pressure information as described in [0071]); and

a web services interface ([0086] indicating an Internet browser interface) that, in response to a request from a secondary software system, retrieves the blood pressure information or derivative thereof from the database and provides the blood pressure information to the secondary software system ([0085] indicating a remote client module that requests information from the website interface for viewing on remote client modules).

Kumar further discloses in paragraph [0071] that various types of blood pressure monitors can be attached to the system including body-worn continuous blood pressure monitors, but are silent on the use of optical blood pressure sensors on the finger.

However Mills, a reference in an analogous art, discloses a device for noninvasive monitoring of a patient's blood pressure (Col. 2 Lin. 53-64) using an optical sensor that comprises a light source and detector placed over a patient's appendage such as the finger (Col. 12 Lin. 21-67 as exemplified in Figs. 11, 12, and 13). The detector processes the light signals going through the finger and sends the signal via electronic circuitry cabling to a processor wherein algorithms calculate blood characteristics such as arterial blood pressure from the

incoming signal (Col. 14 Lin. 29-51). The invention disclosed is simple to operate and can be used in a variety of locations requiring minimal technical support to operate (Col. 4 Lin. 14-34).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the blood pressure monitor as disclosed in Kumar with the optical blood pressure monitoring device as disclosed by Mills because Mills teaches that the optical monitoring device adapted for application to the finger will allow easier care of young children requiring a higher degree of freedom (Col. 5 Lin. 14-34).

Claims 2-11 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar in view of Mills as applied to claims 1 and 18 above, and further in view of Lynn Patent Application 2003/0000522 and Northrup US Patent Application 2003/0172127.

Modified Kumar as cited above discloses all the limitations of claims 1 and 18. Furthermore Kumar states in paragraph [0087] that the web services interface can be implemented using Java and Java servlet programming.

Modified Kumar does not disclose the use of an application-independent format such as XML, SOAP, or algorithms that process WSDL files.

However Lynn, a reference in an analogous art, discloses a centralized hospital monitoring system that is remotely accessed through the use of software language mechanisms such as Java, proprietary operating system protocols such as Microsoft's DCOM, or through industry standard non-proprietary protocols such as SOAP [Simple Object Access Protocol] or WSDL [Web Service Definition Language] (paragraph [0224]).

Northrup discloses a computer networking directory service that uses RCP [remote procedure call] implementations when a user requests the execution of an application on a remote computer system (paragraph [0190]). Furthermore other methods of networking communication such as SOAP are mentioned along with XML (paragraphs [0215], [0257], and [0278]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the use of Java as disclosed in Kumar with SOAP, WSDL, and XML protocols as disclosed in Lynn and Northrup, because both references teach as cited above that these protocols are all industry standard protocols and can be easily substituted with Java based applications.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bobby Soriano whose telephone number is (571)270-7030. The examiner can normally be reached on Monday thru Friday, 9:30am to 6:30pm Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Johnson III can be reached on 571-272-4768. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. S./
Examiner, Art Unit 3769

/Michael C. Astorino/
Primary Examiner, Art Unit 3769

June 22, 2009